



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

<b>Age: 31</b>		<b>MARY MCCALL</b> , Mother and Conservator, is Petitioner.  Current bond is \$473,149.00.  Account period: 6-19-10 through 6-19-12  Accounting:           \$703,107.58 Beginning POH:       \$592,382.79 Ending POH:          \$663,437.54 (\$290,137.54 cash plus annuity)  Conservator: Waived  Attorney: \$2,000.00 (per Local Rule)  <b>Petitioner prays for an Order</b> approving, allowing and settling the 5 <sup>th</sup> Account and authorizing attorney fees.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note:</b> The Court will set a status hearing for the filing of the 6 <sup>th</sup> Account on Friday 10-17-14.  1. There are numerous "check enclosure" fees that appear to be a fee charged by the bank for return of the actual checks with the statements. The Court may require clarification as to whether there is an alternative offered by the bank for no fee, such as copies instead.  2. Current bond is \$473,149.00. It is unclear whether any of the accounts are blocked. The Court may require an increase in bond to \$777,480.49 (an increase of \$304,331.49) which includes cost of recovery pursuant to Probate Code §2320(c)(4) and Cal. Rules of Court 7.207.  <i>(Note: It is unclear if any of the funds are in blocked accounts. If so, the Court may require clarification and recalculation.)</i>		
<b>Aff.Sub.Wit.</b>					
✓	<b>Verified</b>				
	<b>Inventory</b>				
	<b>PTC</b>				
	<b>Not.Cred.</b>				
✓	<b>Notice of Hrg</b>				
✓	<b>Aff.Mail</b>				w
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	<b>Pers.Serv.</b>				
	<b>Conf. Screen</b>				
	<b>Letters</b>				
	<b>Duties/Supp</b>				
	<b>Objections</b>				
	<b>Video Receipt</b>				
✓	<b>CI Report</b>				
✓	<b>2620(c)</b>				
✓	<b>Order</b>				
	<b>Aff. Posting</b>				
	<b>Status Rpt</b>				
	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				
		<b>Reviewed by:</b> skc			
		<b>Reviewed on:</b> 10-15-12			
		<b>Updates:</b>			
		<b>Recommendation:</b>			
		<b>File 1 - McCall</b>			

Pro Per Renobato, Louie (Pro Per Petitioner, father)  
 Pro Per Buik, Tara (Pro Per Petitioner, mother)  
 Atty Stegall, Nancy J. (for Guardian Lynda Lockwood)

## Petition for Visitation

Age: 11 years		LOUIE S. RENOBATO, father, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:  <b>Page 2B</b> is the <i>Petition for Visitation</i> filed by Tara Buik, mother.  <b>Continued from 10/10/2012.</b> Minute Order states parties agree to participate in mediation today [10/10/2012] at 10:00 a.m. Matter continued to 10/18/2012.  <b>Note For Petitioner Louie Renobato:</b> 1. If Court requires all parties pursuant to Probate Code §§ 1460 and 1511 to be served with notice, need proof of mailed service of the Notice of Hearing with a copy of the <i>Petition</i> for: <ul style="list-style-type: none"> <li>Fivenico Renobato, paternal grandfather;</li> <li>Mary Lou Renobato, paternal grandmother.</li> </ul> <b>Note For Respondent Lynda Lockwood:</b> 1. If Court requires all parties pursuant to Probate Code §§ 1460 and 1511 to be served with notice, need proof of mailed service of a copy of the Response for: <ul style="list-style-type: none"> <li>Fivenico Renobato, paternal grandfather;</li> <li>Mary Lou Renobato, paternal grandmother.</li> </ul>
		LYNDA LOCKWOOD, maternal grandmother, was appointed as Guardian on 11/3/2003. Sent notice by mail 8/29/2012.	
Cont. from 101012			
	Aff.Sub.Wit.	Mother: TARA BUIK, sent notice by mail 8/29/2012.	
✓	Verified		
	Inventory	Paternal grandfather: Fivenico Renobato	
	PTC	Paternal grandmother: Mary Lou Renobato	
	Not.Cred.	Maternal grandfather: No information; whereabouts unknown.	
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.	<b>Petitioner requests the Court order visitation with the child based upon the following:</b>	
	Sp.Ntc.	<ul style="list-style-type: none"> <li>First and foremost, he wants to spend time with his daughter and have a relationship with her;</li> <li>He has tried to work outside the Court and maintain a verbal agreement with the Guardian to have visits during each month in past years, but their communication is very poor and he feels he is not getting enough time with his daughter;</li> <li>He believes it is very important that he has parenting time with his daughter so that he can build trust and values with her;</li> <li>He asks the Court to grant him the opportunity to visit his daughter <b>every weekend or every other weekend</b>, so he can fulfill his duties as a parent;</li> <li>He also would like <b>birthday visits, and Thanksgiving and Christmas holiday visits</b>;</li> <li>He would like all of his visitation time to be <b>unsupervised</b>.</li> </ul>	
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	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
~Please see additional page~			
Reviewed by: LEG			
Reviewed on: 10/15/12			
Updates:			
Recommendation:			
File 2A - Buik			

***Declaration of Guardian Lynda Lockwood in Response to Louie Renobato's Request for Visitation of Minor filed 9/26/2012 states:***

- She was appointed legal Guardian of Arianna on 11/3/2003 pursuant to the consent of both Louie (father) and Tara (mother); prior to her appointment, she was Arianna's primary care provider;
- Tara was living with her when Arianna was born; when Arianna was ~6months old, Tara and Arianna moved into an apartment; Tara was evicted ~6 months later, and Arianna came back to live with her;
- From Arianna's birth, except for the 6-month period in early 2002, Arianna has resided with her and she has cared for her; even during the 6-month period Arianna did not live with her, she continued to babysit and care for Arianna on a regular basis;
- Louie has chosen not to be a part of Arianna's life and does not have a relationship with Arianna; Louie has only contacted Arianna a few times over the course of the last 11 years and that contact is generally by email asking how Arianna is doing;
- Louie has only had sporadic visits with Arianna and of short duration; Arianna has never had an overnight visit with Louie; Arianna is not bonded with Louie and is hesitant to give up her time with her friends and with extracurricular activities to spend time with Louie; Arianna does not know Louie well and is uncomfortable with him;
- She has never withheld Arianna from visiting Louie, and have encouraged Arianna to get to know her father; she cannot physically force Arianna to visit with Louie if she does not want to visit with Louie;
- Louie is requesting unsupervised visitation with Arianna every weekend, as well as holidays; such visitation is not possible; Arianna has visitation with her mother, Tara, on alternating weekends from 9:00 am to 5:00 pm on Saturday and Sunday;
- Because of Arianna's visitation with Tara, Arianna only has every other weekend free to spend with her friends, have slumber parties and other activities with children her own age; Arianna enjoys her free time, plays volleyball for her school, and is involved with her school's choir;
- Louie should be able to attend sporting events and extracurricular activities; she will provide Louie with Arianna's schedule to ensure he is aware of her extracurricular activities, in the event he wants to watch;
- Arianna should have the opportunity to gradually be introduced to Louie and become bonded with Louie;
- **She requests Arianna visit with Louie as follows: alternating Saturdays from 9:00 am to 5:00 pm;**
- Louie's visits must be coordinated so they do not fall on Tara's weekend;
- She also requests Arianna's wishes shall be respected with regard to visitation; thus, if Arianna feels uncomfortable after only a few hours, she can leave and will not be made to stay against her will; she is hopeful Arianna will enjoy her time with Louie and will grow her relationship with him;
- Any additional visitation shall occur by mutual agreement of the parties.

**Guardian requests based upon the foregoing that the Court consider the proposed visitation schedule of alternating Saturdays from 9:00 am to 5:00 pm, and make reasonable visitation orders which do not include overnight visitation at this time, but that provide Louie the ability to participate in school and extracurricular activities.**

Pro Per Buik, Tara (Pro Per Petitioner, mother)  
 Pro Per Renobato, Louie (Pro Per Petitioner, father)  
 Atty Stegall, Nancy J. (for Guardian Lynda Lockwood)

## Petition for [Modification of] Visitation

<b>Age: 11 years</b>		<b>TARA BUIK</b> , mother, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>LYNDA LOCKWOOD</b> , maternal grandmother, was appointed as Guardian on 11/3/2003. Sent notice by mail 10/2/2012.	<b>Note For Petitioner Tara Buik:</b> 1. Need proof of mailed service of the Notice of Hearing with a copy of the Petition for: • Louie S. Renobato, father; 2. If Court requires all parties pursuant to Probate Code §§ 1460 and 1511 to be served with notice, need proof of mailed service of the Notice of Hearing with a copy of the Petition for: • Fivenico Renobato, paternal grandfather; • Mary Lou Renobato, paternal grandmother.
<b>Cont. from</b>		Father: <b>LOUIE S. RENOBATO</b> .	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Paternal grandfather: Fivenico Renobato Paternal grandmother: Mary Lou Renobato Maternal grandfather: No information; whereabouts unknown.	<b>Note For Respondent Lynda Lockwood:</b> 1. Need proof of mailed service of the Notice of Hearing with a copy of the Petition for: • Louie S. Renobato, father; 2. If Court requires all parties pursuant to Probate Code §§ 1460 and 1511 to be served with notice, need proof of mailed service of a copy of the Response for: • Fivenico Renobato, paternal grandfather; • Mary Lou Renobato, paternal grandmother. ~Please see additional page~
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 10/15/12 <b>Updates:</b> <b>Recommendation:</b> <b>File 2B - Buik</b>
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<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b>	<p><b>Petitioner requests the Court order visitation with the child based upon the following:</b></p> <ul style="list-style-type: none"> <li>On 11/3/2003, a guardianship was granted over her daughter, Arianna, and she was in complete agreement at the time as she was not in a position to take care of Arianna in the way she deserved;</li> <li>She consented to her mother, Lynda, to provide a safe home and maintain the well-being of her child while she straightened out her life;</li> <li>She appreciated her mother and Court providing her this opportunity; since the inception of these proceedings, she has relinquished her old ways and has been sober for years;</li> <li>She is requesting the Court allow her more time with her daughter; she has been complying with the Court order currently in place;</li> </ul> <p align="center">~Please see additional page~</p>	
<input type="checkbox"/>	<b>Aff. Posting</b>		
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**Petitioner requests, continued:**

- She understands the choices she has made in the past were inappropriate for any mother to make; she has cleaned up her life, she has secure housing, and can provide for her daughter;
- She is not coming before the Court to make unnecessary accusations towards her mother;
- She believes it is in the best interest of Arianna to have a mother in her life that can provide for her; she is capable of doing that and is willing to prove it to the Court;
- She is requesting more time with Arianna, with a gradual increase to build their relationship, so at some point Arianna is able to reside in her residence;
- She is requesting visitation as follows: pick up Arianna from school every Friday, take her to her residence for overnight visits; return to Guardian, Lynda, on Sunday evenings at 7:00 p.m.;
- She would also like to have involvement in Arianna's school activities, sports events, award ceremonies, etc.;
- She is requesting the Court specify her educational rights because the school requires it; the current Court order states she is able to be involved in school events if she and Guardian mutually agree upon it;
- She is going through this Court process with the goal to end the guardianship and have Arianna back in her residence.

**Declaration of Guardian Lynda Lockwood in Response to Louie Renobato's Request for Visitation of Minor filed 10/9/2012 states:**

- Approximately every 6 months, Tara brings a motion to terminate the guardianship and/or to request more time with Arianna; Tara's main reason for filing a motion for visitation and/or termination of the guardianship is not to seek more time with Arianna, but instead as a means to get something she wants from her [Guardian];
- **Recent history of Requests for Visitation:**
  - Prior to the instant petition filed by Tara, she filed a petition on 12/7/2011; after the Court issued a Minute Order for the Court Investigator to interview Tara, Tara contacted her [the Guardian] and told her she would vacate the hearing if she [Guardian] complied with Tara's request to watch her 5-year-old son, **NOAH**, so that she could attend school and get a job; she agreed to Tara's demand, so Tara signed a stipulation to vacate the hearing (*please see Exhibit A for copies of text messages*); hearing was taken off calendar when she agreed to watch Noah;
  - On 8/31/2012, Tara filed the most recent petition to modify visitation; almost immediately after filing the petition, Tara contacted her, told her she filed the petition and stated she was willing to vacate the hearing if she [Guardian] would agree to babysit both Noah and her infant daughter, **SOPHIA** (*please see Exhibit B for copies of text messages*); Noah is a very behaviorally challenged child, and she [Guardian] cannot babysit him safely around her other children for any length of time; she told Tara she would not be able to babysit, thus Tara said she would continue with her petition; unfortunately, Tara does not want more visitation with Arianna, Tara only wants a means to manipulate her [Guardian];
  - On 8/28/2012, prior to Tara filing her 8/31 petition for visitation, Arianna's father, **LOUIE RENOBATO**, filed a petition for visitation; this is Louie's first request for visitation since she was granted guardianship of Arianna (with his approval) in 2003; Louie is requesting alternating weekends or every weekend with Arianna; in her response, she agreed to unsupervised visitation on alternating Saturdays from 9:00 a.m. through 5:00 p.m. Arianna is not bonded with Louie and does not have a relationship with him, and she is not comfortable at this time spending overnight with Louie;

~Please see additional page~

**Guardian Lynda Lockwood's Response filed 10/9/2012, continued:****• Recent history of Requests for Visitation, continued:**

- Overnight visits with Tara are also not in Arianna's best interest, as Arianna fears for her safety in Tara's home and is afraid to spend the night;
- The 1-hour weekday was hard on Arianna and Tara, so she [Guardian] proposed Tara and Arianna have 4 hours every Wednesday and for an extended hour on both Saturday and Sunday (*please see Exhibit C for copies of text messages*); Tara originally agreed to the extra time with Arianna, then unexplainably said she did not want the additional time and wanted to leave it to the Court to decide; she [Guardian] was confused with Tara's abrupt change, but such a change in mood is common with Tara;
- Arianna has previously expressed to her counselor that she wants her [Guardian] to pick her up from school and deliver her to school, and that Tara not be allowed in her classroom; she is not privy to the actual reason for this request; she [Guardian] has observed Arianna's discomfort in certain situations involving her mother and her sensitivity to her peers; Arianna may need some time to involve her mother in a more intimate basis at her school; Tara should be able to attend sporting events and extracurricular activities;
- In addition to cooperation with regard to visits with Arianna, she has been supportive of Tara and her family by helping them in times of need with regard to food, gas money and payments for utilities; she and Tara remain close, but she is sometimes torn by Tara's requests as she does not consider them to be in Arianna's best interest at this time.

**• Guardian's Concern about Arianna's Best Interests as Tara Remains Unstable:**

- Tara remains unstable and has a 5-year-old son, Noah, who has extreme behavioral issues, and a newborn daughter, Sophia; it is difficult for Tara to manage Noah, and I often receive text messages from Tara expressing her frustration with Noah and questioning what she should do about his behavioral issues (*please see Exhibit D for copies of text messages*);
- She believes Noah shows many signs of perhaps autism, but Noah has not been diagnosed and is not currently receiving any behavioral or occupational therapy, nor is he on any medication; Noah hits and kicks people in the home, including Arianna, and the baby, and Noah throws objects and has given the baby a black eye; the baby's pediatrician counseled Tara to wear the baby in a sling at all times when Noah is in the home and to never allow Noah unsupervised around the baby; Arianna has told me she has to grab the baby and lock herself and the baby in a room to protect them from Noah when she is at Tara's home; Arianna has expressed that she fears Noah will hurt her or the baby, and she feels like it is her job to protect the baby from Noah;
- In addition to having to care for Noah and the baby, between 3/2011 and 12/2011, Tara lost two jobs; Tara has Bipolar Disorder and is prescribed two medications; Tara's behavior remains unstable and unpredictable; Tara is very impulsive and oblivious to others at times, which is frightening given Noah's behavior around the baby, and Tara continues to make demands that Arianna come live with her; Arianna feels pressured by Tara to be around her newly formed family, and Arianna expresses fear of Tara's boyfriend and Tara's son;
- On 3/28/2012, prior to the birth of the baby, Tara was seen by a social worker at the Fresno County Department of Behavioral Health, (*please see Exhibit E for copies of Plan of Care report*); Tara's self-reported goals was "not to be so overwhelmed with life...;" the report indicates Tara is depressed 4 – 5 days per week, overwhelmed and anxious, has parenting issues and blames other or personal choices; the social worker recommended Tara take her medication, remain clean and sober, and participate in therapy and work the 12 steps with a sponsor; Tara has given birth to her child and her symptoms have exacerbated;

**~Please see additional page~**

- **Guardian's Concern about Arianna's Best Interests, continued:**
  - To her [Guardian's] knowledge Tara does not participate in therapy or a program; Tara's stability is still very questionable;
  - Arianna remains concerned about Tara's insistence that Arianna's living arrangements should be changed; Arianna's security has been with me for such a long period of time that Arianna gets upset about a change; she believes Tara's discussions with Arianna are an effort to force Arianna to make choices about where she lives, and Arianna doesn't want to make this decision; these discussions are also causing Arianna to feel uncertain about where she will be living from day to day and if she will be removed from her [Guardian's] care; Arianna is upset and feels ill and sad too much of the time, and she should be allowed to be happy; Arianna gets confused and feels threatened when her mother becomes unstable, and is also bothered by her mother discussing things with her that are not appropriate.
- **Tara's Home Life is Not Stable: Tara recently lost her housing after failing to pay on time; Tara is in default on her agreed upon restitution; and Tara cannot provide food and/or gas money for herself.**
  - In her petition, Tara states she has a secure place to live for Arianna, she has cleaned up her life, and is stable; Tara is not stable; Tara currently has secure housing, but has only recently located a place to live after her prior lease was not renewed for late and non-payment (*please see Exhibit F for copies of move-out statement*); Tara was homeless for several weeks, and she [Guardian] does not know all reasons for eviction but does know Tara and her children were evicted and lived with various friends prior to locating her current home; Tara has not returned to work after the birth of the baby, and Tara and her family may again lose their housing;
  - In addition to her mental health, Tara only recently got off felony probation for writing bad checks; Tara was ordered to attend a Financial Accountability class and enrolled in the Fresno County District Attorney Bad Check Restitution Program; however, Tara has not made the agreed upon restitution payments;
  - Tara regularly asks her [Guardian] for food and gas money; she will agree to fill her gas tank and give her money for food; she feels bad that she cannot take the children to doctor's appointments, so she agrees to help Tara when she can; Tara is overwhelmed and frustrated with her current situation, and it is not in Arianna's best interest to spend overnights with Tara.
- **[Current Situation:]**
  - Prior to her appointment as Guardian, she was Arianna's primary care provider; Tara was living with her when Arianna was born;
  - Arianna does not want to live with her mother, and will have no problem saying this to the Court Investigator;
  - Arianna is thriving in her home, does well in school, loves sports, is involved in volleyball and will be starting basketball soon; Arianna is also in choir, and she does well in any activity she chooses; Arianna has many friends and likes to invite them over to her home for slumber parties, and likes to go to friend's homes for sleepovers; Arianna is a well-adjusted child and has done well with the guardianship;
  - Tara has graduated from supervised to unsupervised visitation time with Arianna; she has filed 10 requests for termination of the guardianship and for changes to the visitation orders relating to Arianna in the past, with the last petition filed ~9 months since 12/2011 petition.

**~Please see additional page~**

**Guardian asks the Court for the following:**

1. The Court Investigator speak with Arianna;
2. The Court Investigator meet with Tara to determine her stability for increased time with Arianna and the stability of her home;
3. The Court consider the proposed visitation schedule which provides reasonable orders not including overnight visitation as this time, but allows Tara to participate in school and extracurricular activities that do not involve classroom time, as follows:
  - (a) Alternating Saturday and Sunday visitations remain the same, 9:00 a.m. to 5:00 p.m.
  - (b) Weekly Tuesday visitations from 5:30 p.m. to 7:30 p.m. be added;
  - (c) Weekly Wednesday visitations from 2:00 p.m. to 7:00 p.m. be added;
  - (d) Additional times will be provided with Guardian's attendance, such as dinners out and weekend trips, as they have been doing;
  - (e) Tara be invited to attend any and all school-related and extracurricular activities involving Arianna; and
  - (f) All other orders should remain in full force and effect.

<b>DOD: 7/30/2007</b>		<p><b>SAMI MOHAMMED ABDULLAH ALREFAEL</b>, Executor, is petitioner.</p> <p><b>Petitioner states</b> there are no assets to be administered. The only asset of the estate was a residence located at 1749 W. Donner Ave. This asset was never presented to this court for inventory because the residence was the subject of a property settlement in the dissolution of the Decedent's marriage. In Fresno Superior Court case #02CEFL04235. Decedent was divorced at the time of his death, but the property issues had not settled at the time of his death. Pursuant to the property settlement in the dissolution matter, the residence was sold and the proceeds were distributed 25% to Katrina Whitworth (mother of the Decedent's children) as her community property share of such residence, 25% to Jihad Mohammed Abdullah-Alrefai, 25% to Zainab Mohammed Abdulla-Alrefai and 25% to Amir Mohammed Abdullah-Alferai. The proceeds distributed to the minor children were deposited into individual custodial accounts for each child pursuant to the settlement, with Robert Cross, Attorney at Law, as custodian. There are no assets in this estate subject to probate.</p> <p>Creditor's claims were file, approved and personally paid by the Executor, as follows:</p> <ul style="list-style-type: none"> <li>Henry Lima loan to decedent. Amount: \$10,000.00</li> <li>Robert Koligian, attorney fees for decedent's dissolution. Amount \$11,341.00;</li> <li>Aubrey A. Schaich and Debora Ann Schaich loan to decedent. Amount: \$3078.58;</li> <li>Although no creditor's claim was filed, Petitioner entered into a settlement of a claim from Samuel Campos for services to decedent in the amount of \$7,500.00</li> </ul> <p><b>Please see additional page</b></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
<b>Cont. from</b>				
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<input checked="" type="checkbox"/>	<b>Verified</b>			
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<input type="checkbox"/>	<b>Citation</b>			
<input checked="" type="checkbox"/>	<b>FTB Notice</b>			

Reviewed by: KT

Reviewed on: 10/15/12

Updates:

Recommendation:

File 3 - Qayed

**Petitioner prays for an Order:**

1. The Petition for probate of the estate be dismissed;
2. Sami Mohammed Abdullah-Alferael, Executor be discharged as Executor.

**Petition for Appointment of Temporary Conservatorship of the Person and Estate**

<b>Age: 69 years</b>		<b><u>GENERAL HEARING 11/8/2012</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		I'ISHA COOLEY, daughter is petitioner and requests appointment as temporary conservator of the person and estate with \$101,066.14 placed into a blocked account.		Court Investigator Advised Rights on 10/4/12	
				Conservatee's sister, Ruby Jones, was appointed conservator on 3/25/2008 therefore there is no vacancy in the office of conservator.	
<b>Cont. from</b>				Petition for Order Removing Conservator is set for hearing on 11/8/2012.	
	<b>Aff.Sub.Wit.</b>			<ol style="list-style-type: none"> <li>Petition does not address bond. Based on the information provided in the petition, <b>bond should be set at \$110,597.84.</b> (Value of the estate \$192,421.80, plus additional recovery amount \$19,242.18 less the funds that are to be placed into a blocked account \$101,597.84).</li> <li>Proposed Order fixes bond at \$212,000 and does not place any funds into a blocked account.</li> </ol>	
✓	<b>Verified</b>		RUBY JONES, sister, was appointed conservator of the person and estate on 3/25/2008.		
	<b>Inventory</b>				
	<b>PTC</b>				
	<b>Not.Cred.</b>				
✓	<b>Notice of Hrg</b>		<b>Estimated value of the estate:</b>		
			Personal property - \$163,299.80		
			Annual income - \$29,122.00		
✓	<b>Aff.Mail</b>	W/	<b>Total - \$192,421.80</b>		
	<b>Aff.Pub.</b>		<b>Petitioner alleges:</b> The current conservator is unable to care for or protect the Conservatee and is over a year late in filing the second accounting and is not acting in the best interest of the conservatee. Conservatee suffered an attack from the Conservatee's grandson and is unconscious.		
	<b>Sp.Ntc.</b>				
	<b>Pers.Serv.</b>				
✓	<b>Conf. Screen</b>				
✓	<b>Letters</b>				
✓	<b>Duties/Supp</b>				
	<b>Objections</b>		<b>Court Investigator Charlotte Bien's Report filed on 10/9/12</b>		
	<b>Video Receipt</b>			<b>Reviewed by: KT</b>	
✓	<b>CI Report</b>			<b>Reviewed on: 10/15/12</b>	
	<b>9202</b>			<b>Updates:</b>	
✓	<b>Order</b>			<b>Recommendation:</b>	
	<b>Aff. Posting</b>			<b>File 4 – Cooley</b>	
	<b>Status Rpt</b>				
	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				

(1) Petition to Determine Title to Real Property, for (2) Transfer of Property to Personal Representative, for (3) Accounting for Constructive Trust and for (4) Damages for Financial Abuse of Dependent Adult (Prob. C. 850 W & I C. 15610.30 et seq)

<b>DOD: 9-29-11</b>	<b>PUBLIC ADMINISTRATOR</b> , Administrator with Full IAEA, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>JAMES LEMON</b> , Respondent, objects.	
	<b>Petitioner alleges:</b>	
<b>Cont. from 092512</b>	<ul style="list-style-type: none"> <li>Prior to her death in September 2011, Decedent owned no fewer than three (3) parcels of real property (three duplexes) in Fresno:           <ul style="list-style-type: none"> <li>#1 includes 1278 and 1280 N. Van Ness (the "1278-80 Duplex")</li> <li>#2 includes 1282 and 1284 N. Van Ness (the "1282-84 Duplex")</li> <li>#3 includes 1292 and 1294 N. Van Ness (the "1292-94 Duplex")</li> </ul> </li> <li>Prior to April 2011, Decedent's physical and mental health began to seriously decline and, as a result of substantial medical bills and other expenses associated with that decline, Decedent began incurring increasing amounts of debt. By April 2011, in order to pay some of her bills, Decedent borrowed \$5,000.00 from a woman named Brenda Perry and in return granted her a security interest in Parcel #1.</li> <li>Decedent then approached Respondent James LeMon and his business partner Arthur Yosako and asked for a loan to repay Ms. Perry. They loaned Decedent \$5,291.59 to pay off that debt.</li> <li>Later, LeMon and Decedent began discussing the sale of Parcel #1 to LeMon. On or about 4-27-11, Decedent purportedly signed a handwritten agreement to sell Parcel #1 to LeMon for \$63,000 less all liens and debts on the property, including the \$5,291.59 owed to LeMon and Yosako.</li> <li>Per the terms of the alleged agreement, LeMon was to make a \$15,000.00 down payment to Decedent and thereafter pay \$2,000.00/month for 24 months. They opened an escrow with Fidelity National Title Company to facilitate the transfer of the property to LeMon.</li> <li>At or around the time that they were discussing the sale of Parcel #1, LeMon began acting as the property manager for all of Decedent's rental units. Petitioner states Decedent and LeMon agreed that compensation for his management services would be deducted from the \$63,000.00 sale price.</li> <li>LeMon knew Decedent was physically and mentally declining, that she was largely unable to manage her own finances, and that she was easily susceptible to the influence of others.</li> </ul>	
<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	W	
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<input checked="" type="checkbox"/> <b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>	X	
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCC/JEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
<b>SEE ADDITIONAL PAGES</b>		<b>Reviewed by:</b> skc <b>Reviewed on:</b> 10-16-12 <b>Updates:</b> <b>Recommendation:</b> <b>File 5 - Scott</b>

**Petitioner alleges (continued):**

- **On 5-16-11**, notwithstanding the pending escrow, Decedent purportedly quitclaimed all three parcels to LeMon without consideration and without the existence of a written contract memorializing any transaction between the parties.
- **In May or June 2011**, notwithstanding that the properties had already been transferred, Fidelity informed Decedent and LeMon that the escrow transaction could not be consummated due to an outstanding \$16,450.25 tax lien and issues related to Decedent's debt to Ms. Perry. Decedent subsequently withdrew from the escrow.
- **On 6-7-11**, two additional quitclaims were executed. Petitioner alleges that one was executed to correct an error in the prior deed that transferred Parcel #1 to LeMon, and the other transferred Parcel #3 from LeMon back to Decedent. Petitioner states that though the title of Parcel #3 was returned to Decedent, LeMon continued to manage the property and collect rents purportedly on Decedent's behalf.
- Interestingly, the quitclaim deed executed 5-16-11 for Parcel #1 purports to correct the legal description contained in the quitclaim deed executed 6-7-11. Also interestingly, the quitclaim deed executed 6-7-11 was recorded prior to the deed executed 5-16-11. Petitioner alleges that irrespective of the dates of execution contained in the various quitclaim deeds, as of the date of filing, title to Parcels #1 and #2 is held in the name of LeMon.
- **Decedent was found dead in her home in September 2011** and it is believed that she had been deceased for 1-2 weeks prior to the discovery of her body. Petitioner states the home was in a state of considerable filth and disarray, including damage caused by animals and large amounts of refuse, garbage, and other materials found strewn about. Food, medicine, and money were all noticeably absent from the house.
- Deputy Public Administrator Noe Jimenez investigated the circumstances of Decedent's death and discovered the aforementioned changes in title to Decedent's assets. Deputy Jimenez learned that tenants had been asked by LeMon to pay their rent directly to him in cash.
- **Deputy Jimenez later discovered that a report had been filed with Adult Protective Services regarding LeMon's relationship with Decedent.** In addition, a contractor who had been performing work at Decedent's home reported that Decedent had told him that somebody had tricked her out of her property and she could not afford her medications.
- When questioned by Deputy Jimenez about his relationship with Decedent and the circumstances of how he came to possess title to and rent from the properties, LeMon indicated that he had purchased the properties from Decedent by providing money directly to her, by making direct payment to third parties, including Kaiser Hospital, on behalf of Decedent, and/or by purchasing necessities for her, including food and medicine. LeMon also stated that he had conveyed all rents due Decedent by issuing various checks made payable to her.
- Kaiser denied having received any payments on behalf of Decedent. Further, no food or medicine was discovered in Decedent's home at the time her body was discovered. No money or other financial assets were found in Decedent's home or in any bank accounts titled in her name.
- **On 10-5-11**, based on this information, Deputy Jimenez filed a certification of Public Administrator pursuant to Probate Code §7603 in connection with Parcel #3.
- **Petitioner states LeMon currently holds legal title to Parcels #1 and #2 and Petitioner believes LeMon is in possession, custody, or control of some or all rents derived from all three parcels from May 2011 through November 2011.** Petitioner alleges that title to the three parcels was never validly transferred to LeMon. No written agreement signed by him purports to bind him to any purchase price for the properties and no written agreement signed by Decedent purports to convey the properties to LeMon upon receipt of consideration. In fact, there is no document that shows any significant value was ever paid to Decedent in exchange for title to the properties.

**SEE ADDITIONAL PAGES**

**Petitioner alleges (continued):**

- Though a writing signed by Decedent purports to establish terms by which LeMon was to purchase Parcel #1, Petitioner alleges that the purchase prices reflected in that writing was never paid to Decedent. Consequently, Petitioner requests an order that Parcels #1 and #2 and any and all rents derived from said properties, belong to Petitioner in its capacity as Administrator pursuant to Probate Code §850 on the ground that any contract or agreement to transfer said properties is void for lack of consideration.
- **Undue influence.** At the time that title to the parcels was transferred to LeMon, Decedent was physically and mentally ill, extremely concerned about her financial well-being, and substantially unable to resist fraud or undue influence. At the time of the transfer(s), Respondent enjoyed a relationship of trust and confidence with Decedent, and had purportedly assumed responsibility for paying for Decedent's food, medical bills and other expenses and Decedent trusted him to do so.
- LeMon actively participated in procuring the title and rents to the properties by assuming control of them, by collecting cash rents from the tenants, and by lulling Decedent into a belief that he was entitled to the properties and the rents they generated and that he would help per pay expenses.
- LeMon has unduly benefitted from the transfer of the properties and the collection of rents related thereto by receiving the value of the properties, the rents generated by them, and receiving such without consideration.
- Consequently, Petitioner requests an order that title to Parcels #1 and 2, and any and all rents Respondent derived from said properties, be deemed vested in Petitioner or, alternatively, be ordered immediately reconveyed to Decedent's Estate pursuant to Probate Code §850 on the ground that title and rents were procured through undue influence.
- **Decedent was a dependent adult pursuant to W&I §15610.23**, suffered from impaired physical and mental health, was substantially unable to protect her rights, and required assistance to carry out normal activities, including procurement of basic necessities such as food as medicine.
- LeMon took and/or obtained real and personal property belonging to Decedent for his own personal gain by acquiring title and rents to the properties.
- Whether as the result of some alleged oral or written agreement or other donative transfer, Decedent was in fact deprived of her rights in the properties and rents generated by same to the benefit of LeMon.
- **LeMon knew or should have known** that his receipt of such property and his conduct in connection therewith was likely to be harmful to Decedent because he was depriving her of the value of the property and the means to support and provide for herself.
- Because Decedent had already been concerned about her physical and financial well-being, the fact that she had been "tricked" and had lost the rights to the properties only served to exacerbate her anxiety regarding her finances. In addition, the lack of income that resulted from her loss of the properties left Decedent unable to afford her various medications and resulted in increased suffering from the absence of such medication.
- LeMon was aware of Decedent's vulnerable condition and her reliance on the income generated by the properties and was reckless in taking the title and rents.
- Petitioner seeks to have the properties and rents reconveyed from LeMon to Decedent's Estate and in addition seeks to recover compensatory, punitive and other enhanced damages from LeMon for his reckless conduct and the harm done to Decedent.
- Because LeMon did not lawfully hold title to the properties and was therefore not entitled to the rents generated by the properties, Petitioner requests that title and rents currently in LeMon's possession, custody or control be deemed to be held in constructive trust FBO Decedent's Estate.
- Petitioner requests the Court order LeMon to provide a full accounting of any and all rents received by him in connection with the properties.

**SEE ADDITIONAL PAGES**

PAGE 4

Petitioner requests this Court issue an Order:

1. Determining that title to the 1278-80 N. Van Ness and 1282 and 1284 N. Van Ness [Parcels #1 and #2] are vested in Petitioner in its capacity as the Administrator of Decedent's Estate;
2. Alternatively, compelling LeMon to reconvey title to such properties to the Estate vis a vis the Public Administrator;
3. Ordering LeMon to account for any and all rents received or obtained by him in connection with the real properties at 1278 and 1280 N. Van Ness, 1282 and 1284 N. Van Ness, and 1292 and 1294 N. Van Ness [Parcels #1, #2, and #3];
4. Deeming that the real properties located at 1278 and 1280 N. Van Ness and 1282 and 1284 N. Van Ness [Parcels #1 and #2] and any rents generated by the properties located at 1278 and 1280 N. Van Ness, 1282 and 1284 N. Van Ness, and 1292 and 1294 N. Van Ness [Parcels #1, #2, and #3] are held by LeMon in a constructive trust for the benefit of the Estate of Janet Scott vis a vis the Public Administrator;
5. For compensatory damages according to proof;
6. For enhanced damages in an amount equal to twice the value of the property recovered pursuant to Probate Code §859;
7. For enhanced damages for Decedent's pain and suffering , both physical and psychological, pursuant to Welfare and Institutions Code §15657;
8. For punitive damages sufficient to punish Respondent's conduct and to deter such conduct in the future;
9. For reasonable attorney's fees pursuant to Welfare and Institutions Code §15657;
10. For costs incurred herein; and
11. For any other relief the Court deems just and reasonable.

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Respondent JAMES LEMON objects. Respondent states:

**Examiner's Note:** Please ensure that future filings have appropriate top margins so that the pleadings can be read without removal from the file.

- LeMon and Decedent had an agreement whereby LeMon was to purchase two of the duplexes. However, Decedent continued to dealy the sell of the properties while simultaneously exploiting LeMon's generosity. LeMon ultimately put many hours of labor and spent considerable sums of money on the duplexes to the benefit of Decedent based on her promises to transfer the properties to him.
- LeMon objects to Petitioner's requests because Petitioner has not established any grounds to support the requested orders. Petitioner asserts LeMon unduly influenced a dependent adult and obtained her rental properties by some "trick" and without consideration. Petitioner fails to meet its burden of proof.
- Lemon contributed substantial time, money and resources toward the purchase of the duplexes because he had been promised for several months that Decedent would remove all liens from the properties and sell two of the duplexes to him.
- Petitioner provides no facts in support of its allegation that Decedent was a dependent adult pursuant to W&I Code 15610.23 and provides no facts in support of its allegation that "some time prior to April 2011" Decedent's "physical and mental health began to seriously decline."
- Petitioner provides no facts in support of its allegation that Decedent incurred "substantial medical bills and other expenses associated with that decline."

**SEE ADDITIONAL PAGES**

**Respondent states (continued):**

- Petitioner provides no facts in support of its allegation that LeMon "knew that [Decedent] was ... largely unable to manage her own finances and was easily susceptible to the influences of others."
- Petitioner provides no facts in support of its allegation that the properties were transferred to LeMon "without consideration." Indeed the contrary is true.
- Petitioner provides no facts in support of its allegation that LeMon collected rent and failed to deliver the rent to Decedent.
- Petitioner provides no facts in support of its allegation that LeMon did not pay cash directly to Decedent or make payments to third parties on her behalf. In fact, LeMon did pay cash to Decedent, make payments to third parties on her behalf, and paid several of her other expenses when requested to do so all against the purchase of the duplexes. See copies of LeMon's check register, bank statements, and miscellaneous receipts attached.
- Petitioner provides no facts in support of its allegation that Decedent "was physically and mentally ill, extremely concerned about her financial well-being, and substantially unable to resist fraud or undue influence."
- Petitioner provides no facts in support of its allegation that Lemon "lulled" Decedent into a belief of any kind. In fact, Decedent was not "lulled" by LeMon, rather, she took advantage of LeMon's kind heartedness and generosity and caused him to spend considerable sums of money and expend much labor cleaning and repairing the rental properties with the promise that she would sell him the duplexes.
- Petitioner provides no facts in support of its allegation that LeMon "unduly benefitted from the transfer of the properties." LeMon, at Decedent's urging, poured money and resources into the duplexes. LeMon was hoping to purchase at least two of the duplexes and Decedent was hoping to keep them from the government. Instead LeMon has become the recipient of unfounded and defamatory statements made about him by Deputy Jimenez and contained in the instant lawsuit.
- LeMon objects to the request for a determination and transfer of title of the 1278-1280 duplex because LeMon has expended considerable money and resources to the benefit of Decedent and in reliance of her promise to sell him the duplex. Moreover, Petitioner has failed to meet its burden of proof; therefore, the Court must deny Petitioner's requests.
- LeMon objects to the request for a constructive trust and an accounting because Petitioner has not provided any facts substantiating the need for such orders. While Petitioner asserts LeMon unduly influenced a dependent adult and obtained her rental properties by some "trick" and without consideration, Petitioner has failed to provide any facts supporting its allegations; the Petition contains unsupported accusations and emotionally charged language, but no facts. Petitioner has failed to meet its burden of proof, so the Court must deny the requests.
- On or about 3-30-11, Yosako, on behalf of Decedent, asked LeMon if he would loan Decedent \$5,291.59 to pay a debt owed to Brenda Perry and some of Decedent's outstanding bills. According to Yosako, Decedent said she would lose the property if the debt was not paid immediately.
- On or about 4-7-11, LeMon agreed to loan Decedent the money. LeMon and Decedent agreed that she would repay him with \$500 monthly payments at 10% interest (see attached). LeMon gave a cashier's check to Yosako that he gave to Decedent.

**SEE ADDITIONAL PAGES**

**Respondent alleges the following facts in support of his interest in acquiring two of the duplexes and opposing any order conveying the property to a constructive trust:**

- Between 4-7-11 and 4-14-11, LeMon loaned Decedent an additional \$600.00 because she claimed her tenants had not been paying their rent on time. Also during this time, Decedent asked Yosako to ask LeMon if he was interested in purchasing the 1278-1280 duplex. According to Yosako, Decedent wanted to sell the rental property. She had explained that at one time she owned several rental properties, but she had been forced to sell them to pay large legal expenses to the law firm of Dowling, Aaron and Keeler who represented her in a fiercely contested conservatorship battle over their mother between Decedent and her sister. Decedent explained that her legal bills caused her to fall behind with the mortgage payment on her primary residence and the tax and utility payments on the rental properties, including the three duplexes on Van Ness.
- Prior to LeMon's interest in purchasing the duplexes, Decedent had recruited one of the tenants to collect rents from the other tenants. Almost all of the tenants had moved out leaving some apartments vacant and one occupied by several people who had entered the apartment illegally. Decedent regularly failed to pay the taxes and utility bills for the duplexes, causing water and electricity to be frequently shut off. She had received at least one complaint to the City of Fresno housing department. The City inspected the apartments and ordered Decedent to make repairs.
- On or about 4-14-11, LeMon agreed to purchase the 1278-1280 duplex for \$63,000.00. The terms of the sale required \$15,000.00 down followed by 24 monthly payments of \$2,000.00. They opened an escrow to consummate the transaction. Escrow instructions attached.
- On or about 4-27-11 escrow still had not closed. LeMon wanted their agreement in writing and drafted a concise sales agreement listing the terms of the sale that Decedent signed. Her signature was notarized (attached).
- On or about 5-11-11, Decedent asked LeMon if he would effectively become the property manager of the three duplexes because she was having trouble collecting rent and maintaining the properties. In exchange for his services, she would deduct the costs borne by LeMon from the total purchase price to be paid toward the duplexes.
- On more than one occasion, Decedent told LeMon she was concerned the "government" would take the properties because she was behind on her taxes. She asked him to transfer all three properties into his name to protect them from being seized. She told LeMon and Yosako that she did not want the properties to go to her sister, the attorneys, or the government. Apparently this was a valid concern since on or about 12-3-07, she deeded a one-half interest in her primary residence located at 8404 E. Nees to the Fresno County Public Guardian's Office as a result of her legal battles with her sister as a result of their mother's conservatorship.
- Decedent and LeMon agreed by transferring the properties he would have collateral for all the money and labor he was devoting to the duplexes. During this time, he loaned Decedent an additional \$400.00.
- On 5-16-11, Decedent quitclaimed the three properties to LeMon for the reasons stated above. LeMon recorded the deeds for 1282-84 and 1292-94, but not 1278-80 because that unit was already in escrow.
- On or about 5-18-11, LeMon paid \$970.00 to purchase premises liability insurance for the three properties and confirmed that three tenants had not been paying rent. In fact, one "tenant" was actually a squatter (with others), and four apartments had no running water.
- Between 5-18-11 and 5-20-11, LeMon prepared and served 3-day notices on the delinquent tenants.

**SEE ADDITIONAL PAGES**

**Respondent alleges (continued):**

- On 5-20-11, at Decedent's request, LeMon paid Decedent's Kaiser Permanente insurance bill (\$400.00) and her Allstate auto insurance bill (\$116.22). They agreed that all of these advance payments for misc. debts would be credited toward his purchase of the 1278-80 duplex and serve as collateral for the 1282-84 duplex.
- On 5-24-11, Decedent and LeMon signed the final escrow documents and LeMon believed the sale would finally occur. On that date he also paid her PG&E bill (\$151.45) and he paid Yosako \$600.00 to cover what Decedent represented was part of a debt she owed to Yosako.
- Between 5-26-11 and 5-28-11, LeMon evicted a tenant that was behind on his rent. Decedent instructed him not to rent it because she planned to move there when she vacated her residence on Nees. During this time, LeMon also took three loads of refuse left by the evicted tenants to the county dump, mowed and watered the lawns and made minor repairs, incurring expenses of \$56.83 to Orchard Supply Hardware.
- On or about 5-30-11, LeMon loaned Decedent another \$100.00 to be credited toward the purchase of the duplexes.
- On 5-31-11, LeMon paid \$14,76.88 to the City of Fresno to get water service restored to the duplexes, and also repaired four of the six coolers at the duplexes.
- On 6-1-11, Fidelity National Title Co. notified that new lien had been placed on the 1278-80 Duplex for delinquent taxes in the amount of \$16,554.00. Decedent told him that she would take care of that lien so the sale could be completed, but she never did.
- On or about 6-1-11, Decedent and LeMon verbally agreed that she would sell the 1282-84 Duplex to LeMon for terms similar to the agreement for the 1278-80 Duplex: total sale price of \$61,800.00.
- Between 6-14-11 and 8-5-11, LeMon traveled out of the country and was later diagnosed with cancer and began receiving medical treatment. He ultimately had surgery to remove the cancer.
- From June through September 2011, LeMon and Yosako (when LeMon was out of the country) made several cash payments directly to Decedent and also made several payments on her behalf. They also had delinquent tenants evicted, obtained new tenants, and made repairs and improvements to the properties. LeMon did these things because of Decedent's promise to him that his money and resources poured into the duplexes would be credited against his purchase.
- On or about 6-8-11, LeMon quitclaimed the 1292-94 Duplex to Decedent because she told him she wanted to quitclaim it to Yosako. Further, Decedent told LeMon she would get the deed recorded, but she never did. On 8-16-11, she asked LeMon to record the deed, and he did.
- On 6-9-11, LeMon loaned Decedent \$4,789.24 toward the purchase of the 1278-80 Duplex because she told him that she had taken care of the tax lien. It is unknown how she arrived at that figure, but soon after LeMon gave her a check for that amount, she told him she could not cash his check. He responded by giving her \$3,000.00 cash and paying several of her debts, such as the utility bills and Kaiser Permanente bill. Copies of check and cash receipt attached.
- On or about 8-9-11, Decedent again asked LeMon for a cash loan as credit against the purchase of the Duplexes and LeMon gave her an additional \$450.00. She again promised to take care of the tax lien, and further promised that if she didn't take care of it by the end of the month, she would pay LeMon \$21,000.00 as repayment for all of his cash advances and expenses he had paid toward the properties.

**SEE ADDITIONAL PAGES**

**Respondent alleges (continued):**

- From May through September 22, 2011, LeMon paid expenses related to the properties and to Decedent of over \$20,000.00 and he and Yosako collected rents he paid to Decedent over \$8,300.00. Copies of some of the receipts prepared by Yosako are attached.
- On 10-4-11, one of the tenants contacted LeMon and told him that Deputy Sheriff Noe Jimenez had informed the tenant that Decedent had died, that she had lodged a report against LeMon with APS, and that all rent money from the properties was to be paid to the Public Guardian. LeMon never received the documents given to tenants by Deputy Jimenez, nor was he ever notified of an APS report.
- Between October 4 and October 6, 2011, LeMon called Deputy Jimenez and left four messages before his call was returned. He attempted to explain that he had been working with the Decedent to improve the properties and that they had an agreement for him to purchase the properties. In or about March 2012, LeMon and Yosako met with counsel for the Public Administrator's office and explained that they had an agreement for him to purchase the properties.

**Respondent states** Petitioner fails to establish that LeMon's actions constitute a "taking" as defined by W&I § 15610. Even assuming LeMon had taken one or more of the duplexes, Petitioner fails to establish that his actions were for a wrongful use, due with intent to defraud, or constitute undue influence pursuant to W&I § 15610. Petitioner fails to establish that LeMon intentionally deceived Decedent or concealed any material fact from her. Indeed, facts show that LeMon was led along by Decedent such that he paid her considerable sums of money, repaired and maintained her duplexes, paid some of her personal obligations/debts, and obtained tenants based on her promise that she would sell the two duplexes to him, which she never did.

**Respondent requests the Court deny all of Petitioner's requested orders, and further requests the Court order the following:**

1. LeMon be granted title in the 1278-80 and 1282-84 Duplexes based on his fulfillment of the agreement he and Decedent formed prior to her death, and based on the valuable consideration he has paid for the acquisition of those duplexes;
2. Alternatively, in the event this Court orders the duplexes conveyed to Petitioner, to order Petitioner to repay LeMon for the labor and costs he has borne as part of his agreement with Decedent toward acquisition of the duplexes, plus all expenses he had incurred in defending himself against the serious accusations in the Petition;
3. For reasonable compensatory damages according to proof;
4. For reasonable attorney fees as permitted by law;
5. For costs associated with this action; and
6. Any and all other relief the Court deems appropriate.

(1) First and Final Report of Administrator and Petition for Its Settlement, (2) For Statutory Administrator's Commissions and Statutory Attorneys' Fees, and (3) For Final Distribution of Estate on Waiver of Accounting [Prob. C. 11600, et seq.]

<b>DOD: 2/7/2012</b>		<b>SHARON FISHER</b> , Administrator, is petitioner.  I & A - <b>\$689,532.09</b> POH - <b>\$520,322.25</b>  Administrator - <b>\$16,790.65</b> (statutory)  Attorney - <b>\$16,790.65</b> (statutory)  Costs - <b>\$569.50</b> (filing fees, publication, certified copies)  Closing reserve- <b>\$100,000.00</b>  <b>Proposed distribution is to:</b>  <b>Sharon Fisher</b> - ½ interest in 2007 Ford Pick-up, ½ interest in 1999 Ford Pick-up and \$184,836.38  <b>Brian Mason</b> - ½ interest in 2007 Ford Pick-up, ½ interest in 1999 Ford Pick-up and \$184,836.38	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
			1. Petitioner states the Decedent's spouse, Doyce Mason has agreed she will not inherit anything from the Decedent's probate estate. Need disclaimer of interest. 2. Petition states the Request for Special Notice filed by Stephen Shahbazian on behalf of Doyce Mason was withdrawn. There has been no withdrawal filed therefore, need proof of service of the Notice of Hearing along with a copy of the Petition on: a. Doyce Mason b. Steven Shahbazian 3. Need waiver of accounting from Doyce Mason (unless a disclaimer is filed) 4. If a disclaimer is not filed by Doyce Mason the proposed distribution is incorrect. Without the disclaimer the property should be distributed 1/3 to Doyce Mason, 1/3 to Sharon Fisher and 1/3 to Brian Mason.	
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			
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<b>Pers.Serv.</b>				
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<b>Duties/Supp</b>				
<b>Objections</b>				
<b>Video Receipt</b>				
<b>CI Report</b>				
<input checked="" type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<b>Aff. Posting</b>				
<b>Status Rpt</b>				
<b>UCCJEA</b>				
<b>Citation</b>				
<input checked="" type="checkbox"/>	<b>FTB Notice</b>			
		<b>Reviewed by: KT</b> <b>Reviewed on: 10/16/12</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 7 - Mason</b>		

**First Amended Petition for Letters of Administration; Authorization to Administer  
Under the Independent Administration of Estates Act**

<b>DOD: 02/29/2012</b>	<b>DOROTHY GARRISON</b> , spouse is petitioner and requests appointment as Administrator.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: L. Clark Roundtree substituted in as attorney of record on 9/6/12.</b>  1. Signature on the Petition appears to be a copy and not an original.  2. The issue of bond has not been addressed on the Petition at 3(d)(1) or 3(d)(2).  3. #8 of the Petition does not provide the relationship of each of the persons listed to the Decedent.  4. Need Notice of Petition to Administer Estate.  5. Need proof of service of Notice of Petition to Administer Estate on the following: <ul style="list-style-type: none"> <li>• Frank Garrison</li> <li>• Marry Garrison</li> <li>• Sandy Garrison</li> <li>• Jacob Garrison</li> <li>• Brook Masters</li> <li>• Randy Scott Avenell</li> <li>• Ricky Brian Avenell</li> <li>• Stacy Renee Corwin</li> </ul> 6. Need Confidential Supplement to Duties & Liabilities of Personal Representative.  <p align="center"><b><u>Please see additional page</u></b></p>
<b>Cont. from 080612, 090612</b>	Full IAEA -o.k.	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>	Decedent died intestate.	
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>	Residence: Clovis	
<input type="checkbox"/> <b>Not.Cred.</b>	Publication: The Business Journal	
<input type="checkbox"/> <b>Notice of Hrg</b>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> <b>Aff.Mail</b>	<input checked="" type="checkbox"/>	
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<input checked="" type="checkbox"/> <b>Letters</b>	Probate Referee: Rick Smith	
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<input type="checkbox"/> <b>Objections</b>		
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<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 10/16/12</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 8 - Garrison</b>

**Note:** If the petition is granted status hearings will be set as follows:

- **Friday, 3/15/2013 at 9:00 a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 12/13/2013 at 9:00 a.m. in Dept. 303** for the filing of the first account and/or final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

**Dept. 303, 9:00 a.m. Thursday, October 18, 2012**

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.  
 1820, 1821, 2680-2682)

<b>Age: 68</b>		<b>TEMPORARY EXPIRES 10-18-12</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Court Investigator advised rights on 8-21-12.</u>  <u>Continued from 9-6-12. As of 10-12-12, nothing further has been filed.</u>  <u>Note:</u> The temporary order also authorized Petitioner to move the Conservatee's residence to reside with Petitioner.  <u>Note:</u> Examiner notes that the Petitioner also checked boxes for additional powers under Probate Code §§ 2590, 2351-2358, limited conservatorship, and dementia powers.  1. Need Capacity Declaration (GC-335) with Dementia Attachment (GC-335A) for consideration of medical consent and dementia medication and placement powers.  <u>Note: Petitioner attached a physician's statement to her Confidential Supplemental Information form; however, the Capacity Declaration is a mandatory Judicial Council form that is necessary for the Court to make the findings required to grant medical consent and dementia powers. See GC-335.</u>  <b>SEE PAGE 2</b>
		<b>ISABEL BARRIENTOS</b> , daughter, is Petitioner and requests appointment as Conservator of the Person and Estate with medical consent and dementia medication and placement powers without bond.	
<b>Cont. from 090612</b>		<b>VOTING RIGHTS <u>NOT</u> AFFECTED</b>  <b>Need Capacity Declaration.</b>  <b>Petitioner states:</b> Petition is blank. No facts are provided.  <b>Court Investigator Charlotte Bien filed a report on 8-27-12.</b>  <b>Probate Referee: Steven Diebert</b>	
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<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	X	
<input checked="" type="checkbox"/>	CI Report		
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation	X	
<input type="checkbox"/>	FTB Notice		
			<b>Reviewed by:</b> skc <b>Reviewed on:</b> 10-12-12 <b>Updates:</b> <b>Recommendation:</b> <b>File 9 - Barrientos</b>

## NEEDS/PROBLEMS/COMMENTS:

2. Need Citation (GC-322).
3. Need proof of personal service of Citation with a copy of the Petition at least 15 days prior to the hearing pursuant to Probate Code §1824 on Mr. Barrientos.
4. Need Notice of Hearing (Form GC-020).
5. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on all relatives pursuant to Probate Code §1822.

Note: Petitioner does not list relatives on the Petition; however, the Court Investigator's Report indicates the following relatives:

- Guadalupe Barrientos (Spouse)
- Diana Gamez (Daughter)
- Alice Ayala (Daughter)
- Demetrio Barrientos (Son)
- Sylvia (Daughter)
- Cindy (Daughter)

6. Need Video Receipt (Local Rule 7.15.8.)
7. Need bond of \$16,500.00. Petitioner requests appointment as conservator of the estate without bond; however, bond is required for every conservator of the estate including cost of recovery pursuant to Probate Code 2320(c)(4) and Cal. Rules of Court 7.207. Petitioner states the estimated value of the estate is \$15,000.00; therefore Examiner calculates bond should be \$16,500.00.
8. If granted, the Court will set status hearings as follows:
  - Filing of bond (Date to be determined)
  - Filing of Inventory and Appraisal (Date to be determined)
  - Filing of First Account (Date to be determined)

Note: Due to the above issues, continuance for compliance may be necessary. Examiner has retained the Order and will prepare accordingly if/when granted.

**Petition of Determine Validity of Purported Trust Amendment and Restatement;  
and for Order Compelling Trustee to Report (Cal. Prob. 16060, 16061, 17200)**

<b>DOD: 04/24/12</b>  <b>Cont. from</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;"></td><td style="width: 80%;">Aff.Sub.Wit.</td><td style="width: 10%;"></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td></td></tr> <tr><td></td><td>PTC</td><td></td></tr> <tr><td></td><td>Not.Cred.</td><td></td></tr> <tr><td>✓</td><td>Notice of Hrg</td><td></td></tr> <tr><td>✓</td><td>Aff.Mail</td><td>w/</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td></td></tr> <tr><td></td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td></td></tr> <tr><td></td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td></td><td>CI Report</td><td></td></tr> <tr><td></td><td>9202</td><td></td></tr> <tr><td></td><td>Order</td><td>x</td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td></td><td>UCCJEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td></td></tr> </table>		Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	w/		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp			Objections			Video Receipt			CI Report			9202			Order	x		Aff. Posting			Status Rpt			UCCJEA			Citation			FTB Notice		<p><b>NICHOLAS PALEOLOGOS</b>, son and beneficiary, is Petitioner.</p> <p><b>Petitioner states:</b></p> <ol style="list-style-type: none"> <li>Gust Paleologos ("Decedent") died on 04/24/12. He was survived by his four children: Nicholas Paleologos ("Petitioner"), Anita Paleologos Yagjian, Harry Paleologos, and Dean Paleologos. He was preceded in death by his wife of approximately 17 years, Annette Paleologos. Annette and Decedent had no children together. Decedent's children were the product of his prior marriage to Maria Paleologos, whom he divorced in 1966.</li> <li>On August 29, 1990, Decedent executed the GUST PALEOLOGOS 1990 TRUST (the "Trust"). Petitioner believes that the only copy of the Trust is in the care of his brother Dean and Dean has refused to provide Petitioner with a copy of the Trust. Petitioner believes that he is a beneficiary of the Trust and thus has standing to bring this Petition.</li> <li>On 12/31/99, Decedent executed a pour-over will that nominated Dean as executor and named the Trust as the "pour-over beneficiary".</li> <li>On 03/23/07, Decedent purportedly executed a Modification and Complete Restatement of the Trust.</li> <li>Upon Decedent's death on 04/24/12, the Trust became irrevocable by operation of Law.</li> <li>Petitioner alleges that Dean is currently acting as successor trustee of the Trust and that the principal place of business of the Trust is Fresno County, where Dean resides.</li> <li>Petitioner believes that the Trust estate includes, among other things, two commercial properties, including approximately 16 apartment rental units, located in Fresno County as well as a condominium located in the City of Fresno where Decedent maintained his primary residence until 2009 when he was placed in an assisted living facility and subsequently, in a memory care facility.</li> </ol> <p style="text-align: right;">Continued on Page 2</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need Order.</p> <p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 10/16/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 10 - Paleologos</b></p>
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8. Petitioner alleges that over his lifetime, Decedent built a successful career in the real estate industry as a landlord, agent and lender. In addition to owning substantial personal property, Decedent owned and managed two commercial properties on Kings Canyon Blvd. in Fresno, including approximately 16 apartment rental units and also owned a condominium in Fresno which was Decedent's primary residence.
9. As Decedent aged, he grew less able to manage the two Kings Canyon properties and beginning in 2002, Decedent, who by then was elderly, started to form a close relationship with his son Dean. Petitioner alleges that Decedent became reliant on Dean for assistance with managing his personal and financial affairs. At the time, Dean owned a small, faltering construction business in Menlo Park, CA where he lived. Dean began making regular trips to Fresno to assist Decedent with the maintenance and management of Decedent's commercial properties and other financial affairs. Gradually, as Dean's construction business continued to decline, he spent more and more time in Fresno helping Decedent and staying with Decedent at his Fresno Condominium.
10. During this period of time, and prior to the 2007 execution of the amended and restated Trust, Dean informed Petitioner that Decedent had been diagnosed with Alzheimer's disease. Decedent admitted to Petitioner that he could no longer see certain numbers when they were written down and that he could no longer write cards or checks as a result. Petitioner alleges that due to these difficulties and his mental decline, Decedent became dependent on Dean for help paying his bills, managing his assets, and taking care of the commercial properties. Petitioner alleges that Dean took on a greater and greater role in the management of Decedent's affairs and eventually took over complete management of the commercial properties after dismissing the existing property managers.
11. Petitioner alleges that in early 2009, Dean's wife, Helen Paleologos, quit her teaching job and moved to Fresno to be with Dean. At that time, neither Dean nor Helen were employed and both were dependent on Decedent for financial support.
12. Shortly before or immediately after Helen's arrival in Fresno, Dean and Helen moved Decedent into an assisted living facility and Dean and Helen moved in to Decedent's condo. At this time Decedent was unable to operate a television, could not read a clock, was always disoriented, frequently took off his clothes without reason, and was unable to operate the ventilation system.
13. In 2011, Dean informed Petitioner that the assisted living facility where Decedent was residing could no longer meet Decedent's needs and Dean moved Decedent to a memory care facility. At the memory care facility, Decedent's physical and mental health continued to deteriorate. He fell regularly and was frequently in and out of the hospital. Decedent died approximately 1 year later on 04/24/12.
14. Petitioner alleges that the amended and restated Trust instrument purportedly executed by Decedent on 03/23/07 is invalid and unenforceable on the following grounds:
  1. Lack of Capacity. Petitioner alleges that on 03/23/07, due to advanced Alzheimer's disease and other mental and physical infirmities, Decedent was not mentally competent to make the purported amended and restated trust. Petitioner alleges that Decedent's Alzheimer's disease substantially impaired his alertness and attention as well as his thought processes and ability to process information at the time he executed the instrument. Petitioner alleges that Decedent's condition prevented him from understanding his rights, duties and responsibilities affected by his decision to execute the instrument as well as the probable consequences for himself and the significant risks, benefits and reasonable alternatives to that decision. Petitioner further alleges that Decedent was not capable of understanding the instrument's nature, purposes, or effect at the time that it was executed. Consequently, the Court should find that the amended and restated Trust instrument is invalid due to the settlor's lack of capacity.

Continued on Page 3

2. Undue Influence. Petitioner alleges that at the time the amended and restated Trust instrument was executed, Decedent was acting under undue influence exercised by Dean and Dean's wife Helen. This undue influence consisted of the following:
  - a. Decedent, at the time of the purported execution of the alleged amended and restated Trust instrument, was elderly and suffering from serious ailments and was under the surveillance of Dean and Helen, and was therefore rendered susceptible to influence, was unable to act and unable to recognize the intentions and actions of others, and his freedom of will was easily subverted.
  - b. At the time the amended and restated Trust instrument was executed, Dean shared a confidential and fiduciary relationship with Decedent. Dean provided care to Decedent, took responsibility for placing Decedent in assisted living and memory care facilities, wrote checks and paid bills for Decedent, and managed Decedent's financial affairs, including Decedent's properties.
  - c. As a result of the confidential relationship shared between Dean and the Decedent, as well as Decedent's advanced Alzheimer's disease, Decedent was particularly susceptible to Dean's influence at the time the amended and restated Trust was executed.
  - d. The ultimate disposition under the purported amended and restated Trust, and many of said document's provisions are contrary to Decedent's natural or true intent. Decedent was not following the dictates of his own will but was acting wholly under the influence of Dean and Helen.
  - e. Due to the undue influence of Dean and Helen, Decedent signed the purported amended and restated Trust whereby Dean will receive the bulk of Decedent's estate to the prejudice of Decedent's other children.
  - f. Petitioner alleges that but for the acts of Dean and/or Helen, Decedent would not have signed the amended and restated Trust. Petitioner therefore submits the Court should find that the amended and restated Trust instrument dated 03/23/07, is invalid.
3. Mistake. Petitioner alleges that Decedent signed the purported amended and restated Trust instrument due to a mistake of fact or law.
4. Fraud. Petitioner alleges that the amended and restated Trust dated 03/23/07 was procured to be made and to be signed by Decedent by reason of fraud of Dean and others, who falsely and fraudulently made representations to Decedent, including false and fraudulent representations about the nature and import of the document, and who falsely and fraudulently made representations to Decedent about the character, assets and intentions of Petitioner.
  - a. Specifically, Petitioner alleges that Dean made false statements to Decedent, including, but not limited to, that he, Dean, was the only child of Decedent who loved and cared for him and that Petitioner's love and affection for Decedent was less than Deans. Petitioner also alleges that Dean represented to Decedent that after Decedent's death, he would administer the whole of the Trust estate for the benefit of all of Decedent's children, in equal shares.
  - b. At the time of making such representations to Decedent, including the time of the making of the amended and restated Trust, Dean reiterated these representations, including those about the nature and import of the amended and restated Trust and the character, assets and intentions of Petitioner, to Decedent.
  - c. All of the foregoing representations made by Dean to Decedent were false, and when made, Dean knew them to be false. Dean made such representations with the intent and for the purpose of deceiving, prejudicing and including Decedent to execute the amended and restated Trust dated 03/23/07, and to make and sign the document reducing Petitioner's share of the Trust estate and leaving the bulk of his estate to Dean.

Continued on Page 4

- d. At all times when these representations were made and reiterated, Decedent was ignorant of the falsity of such representations and belief and relied on them, and thereby induced to make and sign the amended and restated Trust. Had Decedent known the true facts, he would not have made and signed the instrument.
  - e. As a result of these representations by Dean, and Decedent's reliance thereon, Petitioner's share of the Trust estate was reduced. Petitioner therefore asserts the amended and restated Trust instrument is invalid and unenforceable.
15. Following Decedent's death, Dean began administering the Trust per the terms of the March 23, 2007 amended and restated Trust instrument.
  16. Dean has since become very secretive about the Trust administration and has refused to provide any financial information to Petitioner regarding the Trust. Petitioner alleges that anytime Dean requests that Petitioner assist him with some aspect of the administration, Dean has been careful not to reveal any information to Petitioner about the Trust estate.
  17. Most recently, Dean sent correspondence requesting that Petitioner agree to the terms of the modified Trust and waive any right to legal action against Dean as trustee or the Trust in exchange for a prompt distribution. Petitioner submits this demand violated Probate Code § 16004.5(a).
  18. Because Dean has refused Petitioner's reasonable requests for information regarding the administration of the Trust estate, Petitioner respectfully requests the Court order Dean to report to Petitioner regarding, among other things, the assets of the Trust estate, the status of any appraisals of Trust assets, and the proposed timeframe for distributions. Petitioner makes this request pursuant to Probate Code § 16060 and 16061.

**Petitioner prays for an Order:**

1. Finding the March 23, 2007 Modification and Complete Restatement of the Gust Paleologos 1990 Trust to be an invalid trust instrument;
2. Compelling Trustee Dean Paleologos to report to the beneficiaries of the Trust regarding the status of the Trust, the assets held in trust, and the trustee's plan for the administration of the Trust;
3. Awarding Petitioner reasonable attorney's fees, to the extent allowed by law; and
4. Awarding Petitioner costs incurred herein.

**Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.  
1820, 1821, 2680-2682)**

<b>Age: 39</b>  <b>Cont. from</b> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:10%;"></td><td style="width:80%;">Aff.Sub.Wit.</td><td style="width:10%;"></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td></td></tr> <tr><td></td><td>PTC</td><td></td></tr> <tr><td></td><td>Not.Cred.</td><td></td></tr> <tr><td>✓</td><td>Notice of Hrg</td><td></td></tr> <tr><td>✓</td><td>Aff.Mail</td><td>w/</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td>✓</td><td>Pers.Serv.</td><td></td></tr> <tr><td>✓</td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td>x</td></tr> <tr><td>✓</td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td>✓</td><td>Video Receipt</td><td></td></tr> <tr><td>✓</td><td>CI Report</td><td></td></tr> <tr><td></td><td>9202</td><td></td></tr> <tr><td></td><td>Order</td><td>x</td></tr> </table>		Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	w/		Aff.Pub.			Sp.Ntc.		✓	Pers.Serv.		✓	Conf. Screen			Letters	x	✓	Duties/Supp			Objections		✓	Video Receipt		✓	CI Report			9202			Order	x	<p align="center"><b><u>NO TEMPORARY REQUESTED</u></b></p> <p><b>MANUEL CHAVEZ</b>, father, and <b>SUSAN CHAVEZ LEON</b>, sister, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers and as Co-Conservators of the Estate with bond set at \$183,500.00 with the following independent powers under Probate Code § 2590:</p> <ol style="list-style-type: none"> <li>1. The power under § 2591 (c)(1) to sell at public auction or private sale real or personal property of the estate without Court confirmation of sale, other than the personal residence of a conservatee.</li> <li>2. The power under § 2591 (h) to alter, improve, raze, replace and rebuild property of the estate.</li> <li>3. The power under § 2591 (i) to let or lease property of the estate for any purpose and for any period, including terms commencing at a future time, and including the power to extend, renew or modify leases.</li> <li>4. The power under Probate Code § 2591 (l) to sell real property of the estate at public auction or private sale.</li> </ol> <p><b>Estimated Value of the Estate:</b>          Personal property - \$ 15,000.00          Real property - 168,500.00  <b>Total - \$183,500.00</b></p> <p>Voting rights affected.</p> <p align="center">Continued on Page 2</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Court Investigator advised rights on 09/25/12.</b></p> <p><b>Voting rights affected, need minute order.</b></p> <ol style="list-style-type: none"> <li>1. Capacity Declaration of Pavel Volkov, M.D. is not initialed at item 7(b). This item must be initialed if the proposed conservatee lacks capacity to give informed consent. Need amended Capacity Declaration.</li> <li>2. Petitioners are requesting that bond be set at \$183,500.00; however, effective 1/1/2008, pursuant to CRC 7.207, except as otherwise provided by statute, every conservator or guardian of the estate appointed after 12/31/2007, must furnish a bond, including a reasonable amount for the cost of recovery to collect the bond under Probate Code 2320(c)(4)). Based on the assets of the estate as stated in the Petition, bond should be set at \$201,850.00 (bond calculator worksheet in file).</li> <li>3. Need Order &amp; Letters.</li> </ol> <p><b>Note:</b> If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> <li>• <b>Friday, November 16, 2012 in Dept. 303</b> at 9:00 am for filing of the bond;</li> <li>• <b>Friday, February 15, 2013 in Dept. 303</b> at 9:00 am for filing of the Inventory &amp; Appraisal;</li> <li>• <b>Friday, December 20, 2013 in Dept. 303</b> at 9:00 am for filing of the First Account and Report of Conservator.</li> </ul>
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**Petitioners state:** The proposed Conservatee suffered a massive stroke on 08/10/12 and suffered likely permanent brain damage. The full extent of the damage and the potential recovery are unknown at this time, however the chances of any significant recovery are slim. Proposed Conservatee is non-ambulatory, unable to see, speak, or give any indication that she can hear or understand others. She is able to breathe on her own, but requires a feeding tube. She has been hospitalized at St. Agnes, but is to be moved to a skilled nursing facility when an appropriate placement can be identified. It is unlikely she will ever be able to live at home again. Improvement in her condition, if any is possible, will likely take months or years. The proposed Conservatee did not make an estate plan, nor has she given any person Power of Attorney to act on her behalf in case of incapacitation.

Petitioners seek the specified independent powers under Probate Code § 2590 to allow them to make appropriate decisions regarding the best possible use of Proposed Conservatee's residence and her car. Her medical prognosis indicates that she will likely never be able to live in her own residence again, nor ever drive; however, it is impossible to fully evaluate these issues at this time. Petitioners seek these independent powers to allow them to make appropriate decisions regarding the disposition of the proposed Conservatee's major assets as they become better informed about her needs and her ability to actually benefit from retaining these assets. Petitioners will be working through the process of applying for disability through both Social Security Administration and the military, as the proposed Conservatee is a Reserve Service Member. Those processes may dictate specific disposition of the proposed Conservatee's assets and income, and Petitioners seek independent authority to pursue all available benefits and to take all necessary steps to maximize her eligibility for benefits, as it is likely she will need round the clock care for the rest of her life.

**Court Investigator Charlotte Bien filed a report on 09/28/12.**

Probate Status Hearing Re Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200)

DOD: 3/11/2010		<p><b>OWEN R. OVERTON</b> was appointed Administrator without bond on 5/25/10 and Letters issued.</p> <p>I &amp; A was filed on 12/22/11 showing the estate valued at \$510,000.00</p> <p>First Account or Petition for Final Distribution was due June 2011.</p> <p><b>Status Report filed on 10/3/12</b> states the estate has been delayed because of the difficulty of selling the apartment building which constitutes the primary asset of the estate. At the time of the last status report the property was listed for \$699,000. The listing price has been dropped to \$599,000. Petitioner state he has been advised by the real estate broker that this is a difficult market for apartment buildings and there has been little comparable sales in Clovis in the last two years. The plan is to continue to market the property and reduce the sales price if necessary.</p> <p>It will be necessary to sell the real property because there are multiple beneficiaries and they will not consent to joint ownership of the property.</p> <p>All creditor's claims against the estate have been paid.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need proof of service of the <i>Notice of Hearing</i> along with a copy of the <i>Status Report</i> on:</p> <p>a. Wells Fargo Card Services (pursuant to their <i>Request for Special Notice</i> filed on 5/7/10)</p>									
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File 12 - Overton												

(1) First and Final Account and Report of Administrator, and (2) Petition for Its Settlement, for Allowance of Statutory Commissions and for (3) Final Distribution (Prob. C. 10400-10406, 10954, 11600-11645)

<b>DOD: 6-5-09</b>		<p><b>ROCKY BUCCI</b>, Administrator with Full IAEA without bond, is Petitioner.</p> <p>Account period: 6-24-09 through 8-18-12</p> <p>Accounting:           \$64,650.00 Beginning POH:       \$64,650.00 Ending POH:           \$64,650.00 (Real property, furniture, two vehicles)</p> <p>Administrator (Statutory): \$2,586.00 (Based on the correct I&amp;A amount of \$64,650.00)</p> <p>Attorney (Statutory): \$1,293.00 (Petitioner states that Joanne Sanoian, previous attorney for petitioner, filed the Petition for Probate, I&amp;A, but did not do or file the First and Final Account for the estate; therefore, her fees should only be one-half of the statutory amount \$2,586.00.)</p> <p>Petitioner states the estate is insolvent. Petitioner has paid all funeral expenses, mortgage payments and property taxes, and all expenses of the estate.</p> <p>When the estate becomes solvent, Administrator wishes to be reimbursed for the monies he has advanced FBO the estate in the amount of \$27,128.35.</p> <p>Petitioner proposes distribution to the heirs including himself, Dino Bucci, and Anthony Bucci.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Examiner notes that based on the items listed on Page 2, it does not appear that the estate is in a position to be closed at this time. Need amended petition.</u></p> <p><u>SEE PAGE 2</u></p>	
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		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 10-16-12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 14 - Bucci</b></p>		

1. The Notice of Hearing was sent without a copy of the petition. Attorney Joanne Sanoian should have received a copy of the petition with her Notice of Hearing pursuant to Probate Code §1252.
2. The Inventory and Appraisal filed 8-5-09 is incomplete at #5 Property tax certificate. Need certification that the requirements of Revenue and Taxation Code §480 have been satisfied by the filing of a change of ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of his death. (See I&A #5.)
3. Petitioner states the estate is insolvent, but that the Ending POH is \$64,500.00 (same as originally inventoried). Need clarification.
4. Petitioner states the three creditor's claims have been cancelled; however, no proof is provided. Need withdrawals of the claims by the creditors or proof of cancellation.
5. Alternatively, need Allowance or Rejection of Creditor's Claim for each claim filed as follows, with service on each creditor.
  - Bank of America – Claim filed 7-22-09 in the amount of \$6,952.00
  - Phillips & Cohen (for Chase Bank) – Claim filed 9-21-09 in the amount of \$5,186.27
  - Phillips & Cohen (for Chase Bank) – Claim filed 9-21-09 in the amount of 5,903.67(Note that if rejected, the creditor has 90 days to respond. See Probate Code §8250(c)(8).)  
(Note that if allowed, but the creditor will not be paid due to insolvency, notice of this hearing is required pursuant to Probate Code §11000(a)(5).)
6. Petitioner states he has paid \$27,128.35 in estate expenses and requests reimbursement “when the estate becomes solvent. Need clarification. Does Petitioner intend to liquidate the assets?  
  
Petitioner's itemization indicates that he has maintained the assets of the estate including making mortgage payments and vehicle registrations as an expense of administration, but Petitioner does not explain how this was a benefit to the estate or the other heirs. It appears that Petitioner resides at the property. There were no receipts to the estate during the account period (such as rent from Petitioner, etc.). How does this benefit the heirs and creditors of the estate? Are the other heirs in agreement with this situation?
7. It is unclear how Petitioner is requesting distribution. If the creditor's claims have been provided for and the assets are to be distributed among the three heirs, need consents to distribution in undivided interests. However, it is unclear how Petitioner will be repaid the \$27,128.35 that he has contributed to expenses. Need clarification.

Age: 3 years		<b>GENERAL HEARING 11/14/12</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>MONIQUE IRENE BLANCO</b> , maternal grandmother, is petitioner.			
		Father: <b>MANUEL SERVIN</b> – personally served on 10/6/12.			
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